

5/023/066



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, UT 84631



RECEIVED

JUN - 3 2003

DIV. OF OIL, GAS & MINING

In Reply Refer to:
3800
(U-010)
UTU-079454

May 30, 2003

CERTIFIED MAIL #7002 3150 0004 1702 1904
RETURN RECEIPT REQUESTED

DECISION

GEORGE FINEGAN :
RESIDENT AGENT : 43 CFR 3809
WEST DESERT GRANITE : SURFACE MANAGEMENT
12479 S REDWOOD RD., REAR :
RIVERTON UT 84065 :

Notice Expired-Reclamation Required

Notice UTU-079454 was filed with this office on April 27, 2000. § 3809.300(a) of the Surface Management regulations requires that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the Bureau of Land Management (BLM) in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of § 3809.503. The BLM did not receive written notification that you wished to extend your notice by January 20, 2003 (extended to January 21, 2003 due to a federal holiday). Because you did not meet the requirements under § 3809.333, your notice, UTU-079454, expired on January 20, 2003.

Pursuant to § 3809.300(d), you may not conduct operations under an expired notice. Under normal circumstances, if you wished to resume operations, you could postpone reclamation if you filed a plan of operations pursuant to § 3809.401 within 30 days from receipt of this decision. However, since the site of your operation was designated a Community Pit on May 12, 2000, which was prior to the location date of your mining claim, and since you have not provided us any information that would convince us the granite you are mining is an uncommon variety of stone, the appropriate means of mining the material is under a mineral materials sales contract.

If you wish to postpone reclamation, you must, within 30 days of receipt of this decision, submit a 43 CFR 3600 proposal for a mineral material sale. A copy of the 43 CFR 3600 regulations is enclosed. Your proposal must include a mine and reclamation plan, and the amount of material you wish to purchase.

However, due to Resource Design Solution's (now known as West Desert Granite) past failure to comply with the regulations, we will not consider a proposal for a mineral material sale unless you show your good faith by submitting with the proposal, a performance bond for reclamation of the existing disturbance. The performance bond must be in the amount of \$6100.00 (see enclosed reclamation cost worksheet) and will be used towards the performance bond for the contract, if the mine plan is approved and a final reclamation cost is calculated.

The mineral materials contract must be signed, and the performance accepted, prior to any additional earth disturbing activities occurring at this site. If the mine plan is not approved, you must begin reclamation within 30 days of BLM's decision not to enter into materials sales contract.

If you do not submit a mineral material purchase proposal and a good faith performance bond within 30 days from receipt of this decision, reclamation must begin on the 31st day, and be completed at the earliest feasible time, unless you contact this office and gain approval to postpone commencement. To ensure that you meet the standards described in § 3809.420(b)(2 and 3) (identical to § 3809.1-3(d)(2 through 4) of the regulations effective immediately before January 20, 2001), an inspection of the site subject to your notice was conducted on May 19, 2003 and revealed the following items that must be completed:

1. Backfill all trenches,
2. Rip all roads and disturbed areas,
3. Scatter the extracted boulders randomly over the ripped area and
4. Seed the disturbed area with the quantity and type of seed as determined by the authorized officer of the BLM at the appropriate time for planting.

In accordance with § 3809.420(b)(3)(iii) (identical to § 3809.1-(d)(5) of the regulations effective immediately before January 20, 2001), you must notify this office upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you promptly in writing of the results of the inspection and close your notice if appropriate.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin

reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in § 3809.601 to § 3809.701.

If you do not agree and are adversely affected by this decision, in accordance with § 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision regarding your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 35 East 500 North, Fillmore, UT, 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Glenn G. Mulder

Enclosures:

ACTING

Form 1842-1
43 CFR 3600 Regulations
Reclamation Cost Estimate Worksheet

cc: **Tom Munson**, UDOGM (M/023/06⁶)
Laura and Joe Dunlop, 2236 Karalee Way, Sandy UT 84092
George Finnegan, 4142 Redtail Dr., Riverton, UT 84062
Jack Finnegan, 10117 S Canterwood Ct., S. Jordan, UT 84095
Joe Finnegan, 27 Lone Hollow Dr., Sandy UT 84092
Resource Designs Solutions, Inc., PO Box 1178, Riverton, UT 84065
Mindy and Jerome Thorne, 12340 S. Redwood Rd., Riverton, UT 84065